IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-7-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.NPD No.1122 of 2006
and
CMP No.8880 of 2006

Rajangam @ Jayaraman .. Petitioner /Appellant/Tenent/ REspondent

vs

1.Amaresan
2.Uthayakumar .. Respondents /Respondents/ Respondents/ Land owner

Civil revision petition preferred under Sec.25 of the Tamil Nadu Bildings (Lease and Rent Control) Act 18/60 as amended by Act 23/73 and Act 1/80 against the judgment and decree passed by the Principal Subordinate Judge, Mayiladuthurai, made in RCA Suit No.8 of 2003 dated 16.11.2004 confirming the order made in RCOP No.2/99 on the file of the Rent Controller, Sirkali.

For Petitioner : Mr.S.Sounthar
For Respondents : Mr.G.Ethirajulu

ORDER

Challenge is made to an order of the Rent Control Appellate Authority, namely the Principal Subordinate Judge, Mayiladuthurai, made in RCA No.8/2003 preferred by the revision petitioner-tenant against the order of eviction made by the Rent Controller, Sirkali, in RCOP No.2/99.

2.The Court heard the learned Counsel on either side.

3.The respondents herein filed a petition before the Rent Controller, Sirkali, in RCOP No.2/99 alleging that the petition mentioned premises bearing door No.31(B) belonged to their mother Saraswathi Ammal by way of purchase under Ex.A1, the sale deed; that thereafter, she executed a settlement deed in their favour, and thus, they have become the owners and have taken possession also; that the revision petitioner is the brother of Saraswathi Ammal; that under the agreement of tenancy, he was put in possession as a tenant; that originally, there was a rental of Rs.75/-; that the said rental was increased to Rs.100/-; that there was rental arrears; that even Saraswathi Ammal issued an advocate's notice alleging the entire facts; that it was replied with false and untenable

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

allegations; that thereafter, the rent was due from 31.3.1998 till the time of the filing of the petition, and under the circumstances, on the grounds of willful default, demolition and reconstruction and also denial of title, eviction was to be ordered.

4.The revision petitioner filed the counter inter alia stating that the property was purchased out of his money, but in the name of his sister Saraswathi Ammal; that the alleged tenancy was false; that there was no landlord-tenant relationship; that the alleged settlement deed was also false; that there was no need for demolition and reconstruction; that there was no title at all; that the title was actually with the petitioner, and hence, the petition was to be dismissed.

5.The Rent Controller on enquiry, ordered eviction on the grounds mentioned therein. An appeal at the instance of the revision petitioner-tenant was also dismissed. Hence, this revision has arisen before this Court.

6.In support of the revision petition, the learned Counsel would submit that there was no evidence at all to show that there was any landlord-tenant relationship between the petitioners in the RCOP and the revision petitioner herein though he was called as a tenant by them; that there was no iota of evidence for payment of rental also; that in the absence of any proof to that effect, the Rent Controller should have dismissed the petition, but granted the relief erroneously; that the appellate forum also did not look into the factual or legal position, but sustained the said order, and hence, it has got to be set aside.

7.The Court heard the learned Counsel for the respondents on the above contentions.

8.After doing so and looking into the materials available, this Court is of the considered opinion that the revision does not carry any merit whatsoever. The respondents herein who were the landlords, filed the RCOP on the grounds of willful default, denial of title and demolition and reconstruction in respect of the premises having Door No.31(B) as mentioned in the petition. The identity of the property was never questioned. The case of the respondents was that the property originally belonged to Saraswathi Ammal by way of purchase, and by way of settlement deed in their favour, they got title to the property, and they have become the owners. The revision petitioner not only denied the title of Saraswathi Ammal, but also would claim that the property belonged to him. The sale deed in favour of Saraswathi Ammal and all tax receipts in her favour were also marked. On the contrary, not even one scrap of paper was available on the side of the revision petitioner. Thus, it was only a false claim made and false evidence adduced by the revision petitioner before the lower authority. As far as the respondents who are the sons of Saraswathi Ammal, are concerned, there was a settlement deed executed in their favour, and thus, they claim that they have become the owners of the property. Apart from that, it is also a proved fact. Even the said

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Saraswathi Ammal has issued a notice through Counsel to the revision petitioner calling upon him to make the payment of rental at the rate of Rs.100/-, and from that period, he has defaulted in making the payment of rental, and hence, he should vacate and hand over possession on the ground of willful default and also the property was required for demolition and reconstruction. This notice was replied by the petitioner denying her title, but would also further add that the property was purchased out of his money, and hence, Saraswathi Ammal should have executed a registered settlement deed in his favour. All would go to show that even at the time of the reply notice, it was a false defence that started.

9.Apart from the above, the revision petitioner before this Court is none else than the own brother of Saraswathi Ammal. In such circumstances, there was no reason for the lady to give such a notice to her own brother calling him as a tenant and making a demand to vacate the premises for non-payment of rental. The learned Counsel for the petitioner would submit that once such a plea was put forth, a duty was cast upon the respondents to examine Saraswathi Ammal. But, it should have been other way about. Once there is evidence to show that Saraswathi Ammal was the owner of the property, and she has only issued the notice to the revision petitioner to vacate the premises on the ground of willful default, then a duty was cast upon the revision petitioner to examine her as a witness to speak contra to that. All the circumstances stood against the petitioner, and hence, both the authorities below have passed an order of eviction, which, in the opinion of this Court, has got to be sustained. Accordingly, it is sustained. Taking into consideration that the petitioner is occupying the premises for residential purpose, this Court feels that it is a fit case where a reasonable time could be granted. Accordingly, six months' time is granted for vacating and handing over possession. An affidavit of undertaking should be filed within a period of two weeks herefrom.

10.In the result, this civil revision petition is, accordingly, dismissed. No costs. Consequently, connected CMP is also dismissed.

nsv/

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To:

1.The Principal Subordinate Judge
  Mayiladuthurai
2.The Rent Controller
  Sirkali
3. The Section officer, VR Section, High Court, Chennai.
+ One cc to Mr. S. Sounthar, Advocate sR 42584
+ One cc to Mr. G. Ethirajulu, Advocate sR 45118
BV (co)
sg 14/8/07

CRP NPD No.1122 of 2006

Dt: 23-7-2007

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/